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adultery, bigamy, wife-beating, housebreaking, receiving stolen goods, breach of trust with fraudulent intent, fornication, sodomy, incest, assault with intent to ravish, larceny, challenging or accepting a challenge to duel with a deadly weapon, or crimes against the election laws, or if so convicted his right to vote has been restored by pardon.

(5) He has not been declared legally insane, idiotic, or incompetent by a court, or if so declared he has subsequently been declared legally sane or competent by a court.

(6) He is not a pauper supported at public expense.

(7) He is not otherwise registered or listed as eligible to vote in the county in which he applies for listing.

A person who has all the above qualifications is also qualified to be listed as an eligible voter in municipal elections if he will have lived in his city or town for four months by the date of the next election.

TEXAS

A person is qualified to be listed as an eligible voter in elections in the State of Texas if he has all the following qualifications at the time he applies for listing and if he takes the required oath or affirmation.

(1) He will be 18 years of age within 60 days after applying for registration.

(2) He is a citizen of the United States.

(3) He is a resident of the State of Texas.

(4) He has not been convicted of a felony, or if so convicted, he has been subsequently restored to full citizenship and suffrage or pardoned.

(5) He has not been declared an idiot or a lunatic by a court, or if so declared, he has been subsequently declared legally sane or competent by a court.

(6) He is not otherwise registered or listed as eligible to vote in the county in which he applies for listing.

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting this appendix B, see the List of CFR Sections Affected in the Finding Aids section of this volume.

APPENDIX C TO PART 801

These are the addresses of each Examiner (State Supervisor), U.S. Office of Personnel Management.

ALABAMA

Examiner (State Supervisor), U.S. Office of Personnel Management, Southeast Region, 75 Spring Street, SW., Atlanta, Georgia, 30303.

GEORGIA

Examiner (State Supervisor), U.S. Office of Personnel Management, Southeast Region, 75 Spring Street, SW., Atlanta, Georgia, 30303.

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LOUISIANA

Examiner (State Supervisor), U.S. Office of Personnel Management, Southwest Region, 610 South Street, Room 804, New Orleans, Louisiana, 70130.

MISSISSIPPI

Examiner (State Supervisor), U.S. Office of Personnel Management, Southeast Region, 802 State Street, Room 403, Jackson, Mississippi, 39201. Address effective December 1, 1979: 75 Spring Street, SW., Atlanta, Georgia, 30303.

SOUTH CAROLINA

Examiner (State Supervisor), U.S. Office of Personnel Management, Southeast Region, 75 Spring Street, SW., Atlanta, Georgia, 30303.

TEXAS

Examiner (State Supervisor), U.S. Office of Personnel Management, Southwest Region, 1100 Commerce Street, Room 4C24, Dallas, Texas, 75242.

(Reorganization Plan No. 2 of 1978 (43 FR 36037))

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting this appendix C, see the List of CFR Sections Affected in the Finding Aids section of this volume.

APPENDIX D TO PART 801

This appendix sets out the bases for loss of eligibility to vote and removal from an eligibility list.

ALABAMA

A person loses his eligibility to vote in elections in the State of Alabama if:

(1) He is no longer a legal resident of the State of Alabama or the county for which he is listed (a person may not vote in a county or precinct in which he is not a resident, but when a person removes from one precinct or ward to another precinct or ward within the same county, town, or city within three months before an election, he may vote in the precinct or ward from which he so removed);

(2) He dies;

(3) He is convicted of treason, murder, arson, embezzlement, malfeasance in office, larceny, receiving stolen property, obtaining property or money under false pretenses, perjury, subornation of perjury, robbery, assault with intent to rob, burglary, forgery, bribery, assault and battery on wife, bigamy, living in adultery, sodomy, incest, rape, crime against nature, or any crime punishable by imprisonment in the penitentiary, or of any infamous crime or crime involving moral turpitude, or vagrancy or being a tramp, or selling or offering to sell his vote

or the vote of another, or of buying or offering to buy the vote of another, or of making or offering to make false return in any election by the people or in any primary election to procure the nomination or election of any person to any office, or of suborning any witness or registrar to secure the registration of any person as an elector, and has not been subsequently pardoned with restoration of his right to vote specifically expressed in the pardon;

(4) He is declared legally insane by a court and has not been subsequently declared legally sane or competent by a court; or

(5) He loses his citizenship in the United States or the State of Alabama.

A person loses his eligibility to vote in municipal elections only, if he is no longer a legal resident of his city or town. Loss of eligibility to vote in a municipal election because of change of such residence does not result in loss of eligibility in any other election.

GEORGIA

A person loses his eligibility to vote in elections in the State of Georgia if:

(1) He is no longer a legal resident of the State of Georgia or the county for which he is listed;

(2) He dies;

(3) He is convicted of treason against the State, embezzlement of public funds, malfeasance in office, bribery or larceny, or of any crime involving moral turpitude, punishable by the laws of Georgia with imprisonment in the penitentiary, and has not been subsequently pardoned;

(4) He is declared legally insane or idiotic by a court and has not been subsequently declared legally sane or competent by a court; or

(5) He loses his citizenship in the United States or the State of Georgia.

A person loses his eligibility to vote in municipal elections only, if he is no longer a legal resident of his city or town. Loss of eligibility to vote in a municipal election because of change of such residence does not result in loss of eligibility in any other election.

LOUISIANA

A person loses his eligibility to vote in elections in the State of Louisiana if:

(1) He is no longer a legal resident of the State of Louisiana or the parish for which he is listed, however, the removal from one parish to another does not deprive a person of the right to remain listed in the parish from which he has removed for the purpose of voting for district officers to be elected in a district which includes the parish to which he has removed, or for State officers, whether the parish is in the same district or not, until he has acquired the right to register or

be listed and vote for such officers in the parish to which he has removed (the removal of a person from one precinct to another in the same parish does not deprive him of his right to remain listed in the parish from which he has removed until three months after the removal);

(2) He dies;

(3)(a) He is convicted of any crime punishable by imprisonment in the penitentiary and has not been subsequently pardoned with the express restoration of the franchise, or (b) he is convicted of a felony and has not subsequently received a pardon and full restoration of franchise.

(4) He is declared legally incompetent or insane by a court and has not been subsequently restored to legal competency or sanity by a court;

(5) He is dishonorably discharged from the Louisiana National Guard or the military service of the United States and has not been reinstated;

(6) He deserts from the military service of the United States or the militia of the State of Louisiana, when called forth by the Governor or, in time of invasion, insurrection, or rebellion, by the President of the United States and has not returned to the command from which he deserted, made good the time lost in desertion, and served out the term of his original enlistment;

(7) He becomes an inmate of any charitable institution, except the Soldiers Home and the United States Marine Hospital at Carville; or

(8) He loses his citizenship in the United States or the State of Louisiana.

A person loses his eligibility to vote in municipal elections only, if he is no longer a legal resident of his city or town. Loss of eligibility to vote in a municipal election because of change of such residence does not result in loss of eligibility in any other election.

MISSISSIPPI

A person loses his eligibility to vote in elections in the State of Mississippi if:

(1) He is no longer a legal resident of the State of Mississippi or the election district for which he is listed;

(2) He dies;

(3) He is convicted of arson, bigamy, bribery, burglary, embezzlement, forgery, obtaining money for goods under false pretenses, perjury, or theft and has not had his right to vote restored by the legislature;

(4) He is declared legally insane by a court and has not been subsequently declared legally sane or competent by a court; or

(5) He loses his citizenship in the United States.

A person loses his eligibility to vote in municipal elections only, if he (1) is no longer a legal resident of his city or town, or (2) if he

has, within two years before the next municipal election, been convicted within the municipality of violating the liquor laws of the State or the municipality, or (3) is at the time of the municipal election in default for taxes due the municipality for the two preceding years. Loss of eligibility to vote in a municipal election because of change of such residence or such conviction or such default in taxes does not result in loss of eligibility in any other election.

SOUTH CAROLINA

A person loses his eligibility to vote in elections in the State of South Carolina if:

(1) He is no longer a legal resident of the State of South Carolina or the county for which he is listed;

(2) He dies;

(3) He is convicted of burglary, arson, obtaining goods or money under false pretenses, perjury, forgery, robbery, bribery, adultery, bigamy, wife-beating, housebreaking, receiving stolen goods, breach of trust with fraudulent intent, fornication, sodomy, incest, assault with intent to ravish, larceny, challenging or accepting a challenge to duel with a deadly weapon, or crimes against the election laws and his right to vote has not been restored by pardon;

(4) He is declared legally insane, idiotic or incompetent by a court and has not subsequently been declared legally sane or competent by a court;

(5) He becomes a pauper supported at public expense; or

(6) He loses his citizenship in the United States or the State of South Carolina.

A person loses his eligibility to vote in municipal elections only if he is no longer a legal resident of his city or town. Loss of eligibility to vote in a municipal election because of change of residence does not result in a loss of eligibility in any other election.

(7) He fails to register in accordance with State law requiring general registration of all previously registered voters every 10th year. However, he does not lose his eligibility to vote if he has attempted to register in accordance with State law and his application was rejected without legal cause or solely because his prior registration was by listing by an Examiner.

TEXAS

A person loses his eligibility to vote in elections in the State of Texas if:

(1) He is no longer a citizen of the United States;

(2) He is no longer a resident of the State of Texas;

(3) He dies;

(4) He is convicted of a felony;

(5) He is adjudged by a court of being mentally incompetent; or

(6) He has a change of name through marriage or judgment of a court, and fails to present his registration certificate to the registrar with a signed request that his name be changed on the registration records.

A person loses his eligibility to vote in elections of the county, municipality, or other political subdivision only, if he is no longer a resident of the subdivision on the day of the election. Loss of eligibility to vote in an election of a county, municipality, or other subdivision does not result in loss of eligibility in any other elections.

TEXAS

Forma Aprobada OMB No. 50R0592

Solicitud Para Ejercer El Derecho Del Voto

La información que se le pide a continuación es con el objeto de determinar si usted es elegible para votar. Si se encuentra que usted es elegible, su nombre será certificado para que los oficiales apropiados del Estado lo agreguen a las listas oficiales para la votación. La autorización para solicitar la siguiente información está basada en el Acta del Derecho de Votar, enmendada. No se le exige que responda a las preguntas que se le harán a continuación, pero su cooperación es necesaria si usted desea que se le clasifique elegible para votar.

Instrucciones para el solicitante: Haga el favor de llenar los espacios en blanco con la información que se le pide. Si necesita ayuda para contestar alguna pregunta, el examinador le ayudara.

1. Nombre _____ (Primer nombre) (Segundo nombre) (Apellido)

Si es casada escriba equi su apellido de soltera _____

2. Sexo Masculino: ☐ Femenino: ☐

3. Direccion permanente: _____ (Calle y no. de su apartamento, calle rural o localidad (no caja postal) Ciudad _____ Zip code _____

4. Lugar donde votara: (si lo sabe) _____

5. Direccion postal si es diferente de la mencionada arriba: Calle o Apartado Postal _____ Ciudad _____ Estado _____ Zip code _____

6. Lugar de nacimiento: Ciudad _____ o Condado _____ Estado _____ o Pais _____

7. Fecha de nacimiento: Mes _____ Dia _____ Ano _____ Si usted es Americano naturalizado, de el nombre de la corte o la localidad donde se naturalizo: _____

8. Registracion previa: Si Ud. esta actualmente registrado en otro condado de Texas, de el nombre de ese condado _____ Cual fué su última dirección: _____ (Ciudad) _____ (Estado) _____ (Zip code)

Es voluntario declarar su número de Seguro Social y su número de teléfono. Si Ud. prefiere declarar sólo uno de esos números o ninguno de los dos, está bien, eso

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NO será motivo para que su solicitud se considere incompleta. Esos números solo servirán para mantener la exactitud y la integridad de los archivos de éste registro.

Número de Seguro Social _____
Número de su teléfono _____

Si usted, sabiéndolo, da información falsa en esta solicitud, está cometiendo un crimen Federal que puede ser castigado con una multa o con encarcelamiento.

PARE AQUÍ.

LLEVE ESTA FORMA AL EXAMINADOR.

Solemnemente juro (o afirmo) que yo, el solicitante, soy de 18 años de edad o mayor, o que cumpliré 18 años dentro de 60 días después de la fecha en que he presentado esta solicitud, y que soy ciudadano de los Estados Unidos, mantengo residencia legal en este Condado, he llenado todos los requisitos legales y entiendo que el hecho de dar información falsa con el objeto de que se me registre para la votación es un crimen.

Firma (o marca) del solicitante _____

Firma del agente* _____

*El agente debe estar registrado para votar y debe ser: (Encierre en un círculo la palabra correspondiente)

Esposo—Madre—Padre—Hijo—Hija

Jurado (o afirmado) y firmado en mi presencia en esta fecha: _____

Examinador _____

*Oficina de Administración de Personal de los
Estados Unidos de America
CSC Form 805-T
abril 1976*

INFORMACION ADICIONAL

La ley del Estado de Texas dice que una persona que ha sido convicta por haber cometido un crimen y que no ha sido perdonada, o una persona que ha sido declarada lunática o idiota y por lo tanto no se le considera competente, no está calificada para votar. Por esta razón las siguientes preguntas deben ser contestadas.

A. Ha sido Ud. alguna vez convicto por haber cometido un crimen: Si ☐ No ☐
Si su respuesta es si, diga cual fué el crimen _____

Dónde y cuando fué usted convicto _____
Fué esta convicción por un crimen que lo descalifica para votar? Si ☐ No ☐ _____

Si su respuesta a la pregunta anterior es afirmativa, ha sido usted perdonado y se le ha devuelto su derecho de votar? Si ☐ No ☐

Si ha sido perdonado, dónde y cuándo? _____

B. Ha sido usted declarado por una corte idiota o lunático? Si ☐ No ☐

Si su respuesta es si, fué usted después declarado por una corte sano o competente? Si ☐ No ☐

Si su respuesta es si, diga cuando y en cual corte _____

Número del certificado de elegible _____

Número del certificado de inelegible _____

APENDICE B

Este apéndice enumera las calificaciones que se requieren para ser colocado en una lista de personas elegibles para votar.

TEXAS

Una persona es considerada calificada para ser puesta en la lista de elegibles para votar en el Estado de Texas si llena los siguientes requisitos al momento de hacer su solicitud y si presta juramento (o afirmación) que se requiere.

(1) Deberá cumplir 18 años de edad dentro de 60 días después de haber hecho la solicitud.

(2) Debe ser ciudadano de los Estados Unidos.

(3) Debe ser residente del Estado de Texas.

(4) No ha sido convicto por un crimen, o si fué convicto alguna vez, se le han desde entonces restaurado sus derechos de ciudadanía y sufragio o ha sido perdonado.

(5) No ha sido declarado por la corte como idiota o lunático, y si lo fué, ha sido después declarado legalmente sano o competente por una corte.

(6) No está registrado para votar en ningún otro lugar de este Condado.

APENDICE D

Este apéndice enumera las razones por las cuales puede usted perder el derecho a votar o por las cuales se le puede quitar de la lista de elegibles para votar.

TEXAS

Una persona pierde su derecho a votar en las elecciones en el Estado de Texas si:

(1) Ha dejado de ser ciudadano de los Estados Unidos;

(2) Ha dejado de ser un residente del Estado de Texas;

(3) Ha fallecido;

(4) Ha sido convicto por haber cometido un crimen;

(5) Ha sido declarado en la corte de ser mentalmente incompetente;

(6) Ha cambiado de nombre por razones de matrimonio o por otros procedimientos legales en una corte y ha fallado de presentar el certificado correspondiente al encargado, dicho certificado debe ser acompañado de una petición firmada pidiendo que su nombre sea cambiado en los archivos de registro para votar.

Una persona pierde su derecho a votar en las elecciones del condado, la municipalidad o cualquier otra sub-división política solamente, si esa persona ha dejado de ser residente de ese lugar el día de la elección. La pérdida de su elegibilidad para votar en una elección de un condado, municipalidad o cualquier otra subdivisión política no resulta

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en la pérdida del derecho a votar en otras elecciones.

Autoridad: Los requisitos enumerados en esta Parte 801 emitidos bajo las secciones 7, 9, 79, Stat. 440; 42 U.S.C. 1973e, 1973g.

EDITORIAL NOTE: FOR FEDERAL REGISTER citations affecting this appendix D, see the List of CFR Sections Affected in the Finding Aids section of this volume.

CHAPTER X—OFFICE OF COMMUNITY
SERVICES, ADMINISTRATION FOR CHILDREN
AND FAMILIES, DEPARTMENT OF HEALTH AND
HUMAN SERVICES

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PART 1080—EMERGENCY COMMUNITY SERVICES HOMELESS GRANT PROGRAM

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- 1080.2 Definitions.
- 1080.3 Allocation of funds.
- 1080.4 Eligible use of funds.
- 1080.5 Application procedures for states.
- 1080.6 Funding of alternative organizations.
- 1080.7 Funding of Indian tribes.
- 1080.8 Reporting requirements.
- 1080.9 Other requirements.

AUTHORITY: 42 U.S.C. 11302 (101 Stat. 485); 42 U.S.C. 11461–11464, 11472 (101 Stat. 532–533), as amended.

SOURCE: 54 FR 6372, Feb. 9, 1989, unless otherwise noted.

§ 1080.1 Scope.

This part applies to the Emergency Community Services Homeless Grant Program.

§ 1080.2 Definitions.

(a) *Homeless* or *homeless individual* includes:

(1) An individual who lacks a fixed, regular, and adequate nighttime residence; and

(2) An individual who has a primary nighttime residence that is:

(i) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);

(ii) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(iii) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

The term *homeless* or *homeless individual* does not include any individual imprisoned or otherwise detained pursuant to an Act of the Congress or a State law.

(b) *Indian tribe* means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act), that is recognized by the Federal Government as eligible for special programs and

services provided to Indians because of their status as Indians.

(c) *State* includes the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau.

§ 1080.3 Allocation of funds.

From the amounts made available under the Emergency Community Services Homeless Grant Program, the Secretary shall make grants to States that administer programs under the Community Services Block Grant Act (42 U.S.C. 9901 *et seq.*), after taking into account the amount set aside for Indian tribes in § 1080.7(a) of this chapter. Such grants shall be allocated to the States in accordance with the formula set forth in subsections (a) and (b) of section 674 of such Act (42 U.S.C. 9903 (a) and (b)). No funds shall be allocated under subsection (c) of section 674 of such Act (42 U.S.C. 9903(c)).

§ 1080.4 Eligible use of funds.

Amounts awarded under the Emergency Community Services Homeless Grant Program may be used only for the following purposes:

(a) Expansion of comprehensive services to homeless individuals to provide follow-up and long-term services to help them make the transition out of poverty;

(b) Renovation of buildings to be used to provide such services, except that not more than 50 percent of such amounts may be used for such purpose, and provided that all procedures required under the National Historic Preservation Act are followed;

(c) Provision of assistance in obtaining social and maintenance services and income support services for homeless individuals;

(d) Promotion of private sector and other assistance to homeless individuals; and

(e) After October 1, 1988, provision of assistance to any individual who has received a notice of foreclosure, eviction, or termination of utility services, if—

(1) The inability of the individual to make mortgage, rental, or utility payments is due to a sudden reduction in income;

(2) The assistance is necessary to avoid the foreclosure, eviction, or termination of utility services; and

(3) There is a reasonable prospect that the individual will be able to resume the payments within a reasonable period of time.

(f) Provision of, or referral to, violence counseling for homeless children and individuals, and the provision of violence counseling training to individuals who work with homeless children and individuals; and,

(g) Not more than 5 percent of the amount received will be used to defray State administrative costs.

[54 FR 6372, Feb. 9, 1989, as amended at 57 FR 27946, June 23, 1992]

§ 1080.5 Application procedures for States.

(a) Each State requesting funds under the Emergency Community Services Homeless Grant Program shall submit to the Office of Community Services an application for funds for each fiscal year, at a time established by the Secretary. Approval must be requested of and received from the Office of Community Services before a State may implement changes to the information requested by paragraph (b) of this section after an application has been approved.

(b) The application may be in any format, but must include a description of the agencies, organizations, and activities that the State intends to support with the amounts received. In addition, the application must include the following assurances, signed by the Governor or his/her designee:

(1) The State will award not less than 95 percent of the amounts it receives to:

(i) Community action agencies and other organizations that are eligible to receive amounts under section 675(c)(2)(A) of the Community Services Block Grant Act (42 U.S.C. 9904(c)(2)(A));

(ii) Organizations serving migrant and seasonal farmworkers; and

(iii) Any organization to which a State, that applied for and received a

waiver from the Secretary under Public Law 98-139, made a grant under the Community Services Block Grant Act (42 U.S.C. 9901 *et seq.*) for fiscal year 1984;

(2) No amount received will be used to supplant other programs for homeless individuals administered by the State;

(3) Not more than 5 percent of the amount received will be used to defray State administrative costs;

(4) Every effort will be made to award the funds within 60 days of their receipt;

(5) Not more than 25 percent of the amounts received will be used for the purpose described in § 1080.4(e) of these regulations; and

(6) The State will have mechanisms in place to assure coordination among State and local agencies serving the homeless. This will include coordination at the State level with the agency responsible for developing the Comprehensive Homeless Assistance Plan or the Comprehensive Housing Affordability Strategy as required by section 401 of such Act (42 U.S.C. 11361), as amended by section 836 of the Cranston-Gonzalez National Affordable Housing Act.

(7) The State will have procedures in place to assure compliance with the provisions of the National Historic Preservation Act prior to the awarding of any amounts to be used for renovating any properties that are listed on, or eligible for inclusion on, the National Register of Historic Places.

(Information collection requirements are approved by the Office of Management and Budget under control number 0970-0088)

[54 FR 6372, Feb. 9, 1989, as amended at 57 FR 27946, June 23, 1992]

§ 1080.6 Funding of alternative organizations.

(a) If a State does not apply for or submits an approvable application for a grant under the Emergency Community Services Homeless Grant Program, the Secretary shall use the amounts that would have been allocated to that State to make grants to agencies and organizations in the State that meet the requirements of § 1080.5(b)(1).

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(b) The amounts allocated under this section in any fiscal year shall be awarded to eligible agencies and organizations in the same proportion as funds distributed to those agencies and organizations by the State for the previous fiscal year under the Community Services Block Grant Program (42 U.S.C. 9904(c)(2)(A)).

(c) Agencies and organizations eligible to be funded under this section shall submit an application meeting the requirements of §§ 1080.5(a) and 1080.5(b)(2), (3), (5), (6) and (7), at a time specified by the Secretary. If such an agency or organization does not apply for or submit an approvable application under this section, the funds that would have been allocated to them shall be reallocated by the Secretary to the remaining eligible agencies and organizations on a pro rata basis.

[54 FR 6372, Feb. 9, 1989, as amended at 57 FR 27946, June 23, 1992]

§ 1080.7 Funding of Indian tribes.

(a) Not less than 1.5 percent of the funds provided in each fiscal year for the Emergency Community Services Homeless Grant Program shall be allocated by the Secretary directly to Indian tribes that have applied for and received a direct grant award under section 674(c) of the Community Services Block Grant Act (41 U.S.C. 9903(c)) for that fiscal year.

(b) An Indian tribe funded under this section is not required to submit an application for Emergency Community Services Homeless Grant Program funds. A tribe's application for a direct grant award under section 674(c) of the Community Services Block Grant Act (42 U.S.C. 9903(c)) that is submitted by September 1 for the succeeding fiscal year will be considered as an application for Emergency Community Services Homeless Grant Program funds for that fiscal year. Acceptance of the Community Services Block Grant application by the Office of Community Services will constitute approval of an award of funds under this section.

(c) Funds allocated under this section shall be allotted to an Indian tribe in an amount that bears the same ratio to all the funds allocated under this section as the tribe's poverty population bears to the total poverty population

of all tribes funded under this section, except that no tribe shall receive an amount of less than:

(1) \$500, for those tribes whose allocation under this section would otherwise be at least \$1 but no more than \$500; or

(2) \$1000, for those tribes whose allocation under this section would otherwise be at least \$501 but less than \$1000.

(d) For purposes of this section, an Indian tribe's poverty population shall be calculated by multiplying the tribe's overall population by the Indian rural poverty rate for the State in which it is located, using the population and rural poverty rate figures established for the purposes of making direct grants under section 674(c) of the Community Services Block Grant Act (42 U.S.C. 9903(c)).

§ 1080.8 Reporting requirements.

Each recipient of funds under the Emergency Community Services Homeless Grant Program shall submit an annual report to the Secretary, within 6 months of the end of the period covered by the report, on the expenditure of funds and the implementation of the program for that fiscal year.

(a) The report is to state the types of activities funded, any efforts undertaken by the grantee and its subgrantees to coordinate homeless activities funded under this program with other homeless assistance activities in the State and communities, the number of individuals served and any impediments, including statutory and regulatory restrictions to homeless individuals' use of the program and to their obtaining services or benefits under the program.

(b) Such annual report shall provide information on the use of funds to defray State administrative costs, including the types of activities which specifically address services to the homeless and also those activities that are related to the administrative costs associated with the coordination and integration of services to the homeless.

(c) States shall also provide information in the annual report which details programs, progress, and activities that are specifically related to expenditures for renovation, including the effects of such activities on historic properties,

Office of Community Services, ACF, HHS

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and the provision of, or referral to, services for domestic violence.

(Information collection requirements are approved by the Office of Management and Budget under control number 0970-0088)

[57 FR 27946, June 23, 1992]

§ 1080.9 Other requirements.

All recipients of grants under the Emergency Community Services Homeless Grant Program shall be subject to the following regulations applicable to the block grant programs in the Department of Health and Human Services:

(a) 45 CFR part 96, subpart B, §96.12—Grant Payment, concerning the timing and method of disbursing grant awards;

(b) 45 CFR part 96, subpart B, §96.14—Time Period for Obligation and Expenditure of Grant Funds, as amended, concerning the availability of grant funds;

(c) 45 CFR part 96, subpart C—Financial Management, as amended, concerning financial management and audit requirements;

(d) 45 CFR part 96, subpart E—Enforcement, as amended, concerning enforcement and complaint procedures; and

(e) 45 CFR part 96, subpart F—Hearing Procedures, concerning hearing procedures.

CHAPTER XI—NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

SUBCHAPTER A—GENERAL

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SUBCHAPTER A—GENERAL

PART 1100—STATEMENT FOR THE GUIDANCE OF THE PUBLIC—ORGANIZATION, PROCEDURE AND AVAILABILITY OF INFORMATION

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AUTHORITY: 5 U.S.C. 552, as amended by Pub. L. 99-570, 100 Stat. 3207.

SOURCE: 52 FR 48266, Dec. 21, 1987, unless otherwise noted.

§ 1100.1 Definitions.

(a) *Agency* means the National Endowment for the Arts, the National Endowment for the Humanities, the Institute of Museum Services, or the Federal Council on the Arts and the Humanities.

(b) *Commercial use request* means a request by or on behalf of anyone who seeks information for a use or purpose that furthers the commercial trade or profit interests of the requestor (or the person on whose behalf the request is made.) The agency must determine the use to which a requestor will put the document. Where the agency has reasonable cause to doubt the use to which a requestor will put the records sought or the use is not clear from the request, the agency may seek additional clarification. The requestor fears the burden of demonstrating the use or purpose of the information requested.

(c) *Direct costs* means those expenditures which an agency actually incurs in searching for and duplication documents to respond to a Freedom of Information Act (FOIA) request. In the case of commercial use requests, the term shall also include expenditures for reviewing documents.

(d) *Duplication* means the process of making a copy of a document necessary to respond to a FOIA request. Such copies may be in the form of

paper, microfilm, machine readable documents, or other materials.

(e) *Educational institution* means a preschool, elementary, or secondary school, an institution of graduate or undergraduate higher education, an institution of professional education, or an institution of vocational education, which operates a program or programs of scholarly research.

(f) *Non-commercial scientific institution* means an institution that is not operated on a "commercial use" basis as defined in paragraph (b) of this section and which is operated solely for the purposes of conducting scientific research the results of which are not intended to promote any particular product or industry.

(g) *Representative of the news media* means any person actively gathering news for an entity that is organized and operated to publish or broadcast information that is about current events or that would be of current interest to the public. Freelance journalists may be regarded as working for a news organization if they can demonstrate a sound basis for expecting publication though that organization, even though not actually employed by it.

(h) *Review* means the process of examining a document located in response to a commercial use request to determine whether any portion is permitted to be withheld. Review includes processing documents for disclosure, including all that is necessary to excise them and otherwise prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(i) *Search* means all the time that is spent looking for material that responds to a request, including page-by-page or line-by-line identification of material in documents. Searches may be done manually or by computer using existing programs.

§ 1100.2 Organization.

The National Foundation on the Arts and the Humanities was established by the National Foundation on the Arts

and the Humanities Act of 1965, 20 U.S.C. 951 *et seq.* The Foundation is composed of the National Endowment for the Arts, the National Endowment for the Humanities, the Institute of Museum Services, and the Federal Council on the Arts and the Humanities. The Institute of Museum Services became a part of the National Foundation on the Arts and the Humanities pursuant to Pub. L. 97-394 (December 30, 1982) and Pub. L. 98-306 (May 31, 1984). Each Endowment is headed by a Chairman and has an advisory national council composed of 26 presidential appointees. The Institute of Museum Services is headed by a Director and has a National Museum Services Board composed of 15 presidential appointees. The Federal Council on the Arts and the Humanities, comprised of Executive branch officials and appointees of the legislative branch, is authorized to make agreements to indemnify against loss or damage for certain exhibitions and advise on arts and humanities matters.

§ 1100.3 Availability of information to the public.

(a) All inquiries, or requests should be addressed to the appropriate agency. Descriptive brochures of the organization, programs, and function of each agency are available upon request. Inquiries involving work of the National Endowment for the Arts should be addressed to the National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. The telephone number of the National Endowment for the Arts is (202) 682-5400. Requests or inquiries involving the National Endowment for the Humanities should be addressed to the National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. The telephone number of the National Endowment for the Humanities is (202) 786-0310. Requests or inquiries involving the Institute of Museum Services should be addressed to the Institute of Museum Services, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. The telephone number of the Institute of Museum Services is (202) 786-0536.

(b) The head of each agency is responsible for the effective administra-

tion of the Freedom of Information Act. The head of each agency pursuant to this responsibility hereby directs that every effort be expended to facilitate service to the public with respect to the obtaining of information and records.

(c) Requests for access to records of the National Endowment for the Arts, the National Endowment for the Humanities, or the Institute of Museum Services may be filed by mail with the General Counsel of the National Endowment for the Arts, the Deputy Chairman of the National Endowment for the Humanities, or the Public Affairs Officer of the Institute of Museum Services, as is appropriate. Requests for access to records of the Federal Council on the Arts and the Humanities should be directed to the attention of the National Endowment for the Humanities. All requests should reasonably describe the record or records sought. Requests submitted should be clearly identified as being made pursuant to the Freedom of Information Act.

§ 1100.4 Current index.

Each agency shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter which is issued, adopted, or promulgated and which is required to be made available pursuant to 5 U.S.C. 552(a) (1) and (2). Publication and distribution of such indices has been determined by the Foundation to be unnecessary and impracticable. The indices will be provided upon request at a cost not to exceed the direct cost of the duplication.

§ 1100.5 Agency procedures for handling requests for documents.

(a) Upon receiving a request for documents in accordance with the rules of this part, the General Counsel of the National Endowment for the Arts, Deputy Chairman of the National Endowment for the Humanities, or the Public Affairs Officer of the Institute of Museum Services, as is appropriate, shall determine whether or not the request shall be granted in whole or in part.

(1) The determination shall be made within ten (10) days (excepting Saturdays, Sundays, and legal holidays) after receipt of such request.

(2) The requestor shall be notified of the determination and the reasons that support it. When a request is denied in whole or in part, the requestor, will be notified of his or her rights to appeal the determination to the head of the agency.

(b)(1) Any party whose request for documents has been denied in whole or in part may file an appeal no later than ten (10) working days following receipt of the notification of denial. Appeals must be addressed to the Chairman, National Endowment for the Arts, Washington, DC 20506, the Chairman, National Endowment for the Humanities, Washington, DC 20506, or the Director Institute of Museum Services, Washington, DC 20506, as is appropriate.

(2) The head of the agency or his delegatee shall make a determination with respect to the appeal within twenty (20) days (excepting Saturdays, Sundays, and legal holidays) after the agency has received the appeal, except as provided in paragraph (c) of this section. If, on appeal, the denial is upheld either in whole or in part, the head of the agency shall notify the party submitting the appeal of the judicial review provisions of 5 U.S.C. 552(a)(4)(B).

(c) In unusual circumstances, the time limits prescribed to determine a request for documents with respect to initial actions or actions on appeal may be extended by written notice from the General Counsel of the National Endowment for the Arts, the Deputy Chairman of the National Endowment for the Humanities, or the Public Affairs Officer of the Institute of Museum Services as is appropriate. The notice shall describe the reason for the extension and the date on which the determination is expected to be made. No notice shall specify a date that would result in an extension of more than ten (10) days (excepting Saturdays, Sundays, and legal holidays). As is used in this paragraph, *unusual circumstances* means:

(1) The need to search for and collect the requested records from field facilities or other establishments that are

separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having a substantial subject-matter interest in the request.

§ 1100.6 Fees.

(a) *Categories of fees.* Fees will be charged according to the Category of the FOIA request.

(1) *Commercial use requests.* The agency will assess charges to recover the full direct cost of searching for, reviewing, and duplicating the requested document. The agency may recover the cost of searching for and reviewing records even if there is ultimately no disclosure.

(2) *Requests from educational and non-commercial scientific institutions.* The agency will charge for duplication costs. To qualify for this category the requestor must show: (i) That requested records are being sought under the auspices of a qualified institution as defined in § 1100.1 (e) or (f) of this part; (ii) the records are not sought for commercial use; and (iii) the records are being sought in furtherance of scholarly or scientific research of the institution.

(3) *Requests by representatives of the news media.* The agency will charge duplication costs for the requests in this category.

(4) *All other requests.* All other requests shall be charged fees which, recover the full reasonable cost for searching for and duplicating the requested records.

(b) *General fee schedule.* The agency shall use the most efficient and least costly method to comply with requests for documents made under the FOIA. The agency will charge fees to recover all allowable direct costs incurred. The agency may charge fees for searching for and reviewing requested documents even if the documents are determined

to be exempt from disclosure or cannot be located. If search charges are likely to exceed \$25, the agency shall notify the requestor, unless the requestor has indicated in advance the willingness to pay higher fees. The following fees shall be charged in accordance with paragraph (a) of this section.

(1) *Searches*—(i) *Manual*. The fee charged will be the salary rate(s) (i.e., basic pay plus 16.1 percent) of the employee(s) conducting the search.

(ii) *Computer*. The fee charged will be the actual direct cost of providing the service including the cost of operating the central processing unit for the operating time that is directly attributed to searching for records responsive to a request and the operator/programmer salary apportionable to the search.

(2) *Review*. The fee charged will equal the salary rate(s) (basic pay plus 16.1 percent) of the employee(s) conducting the review.

(3) *Duplication*. Copies of documents photocopied on one-side of a 8½ x 11 inch sheet of paper will be provided at \$.10 per page. Photocopies on two sides of a single 8½ x 11 inch sheet of paper will be provided at \$.20 per page. For duplication of other materials, the charge will be the direct cost of duplication.

(c) *Restrictions on charging fees*. (1) Except for documents provided in response to a commercial use request, the first 100 pages of duplication or the first two (2) hours of search time shall be provided at no charge. For the purposes of this section, two (2) hours of search time by computer entitles the requestor to two (2) hours of computer operator salary translated into computer search costs. Computer search costs consist of operator salary plus central proceeding unit operating time costs for the duration of the search.

(2) Fees shall not be charged to any requestor, including commercial use requestors, if the cost of collecting a fee would be equal to or greater than the fee itself.

(d) *Waiver or reduction of fees*. (1) Documents shall be furnished without charge or at reduced charge if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of

the government and is not primarily in the commercial interest of the requestor.

(2) The following factors shall be used to determine whether a fee will be waived or reduced:

(i) *The subject of the request*. Whether the subject of the requested records concerns “the operations or activities of the government”;

(ii) *The informative value of the information to be disclosed*. Whether the disclosure is “likely to contribute” to an understanding of government operations or activities;

(iii) *The contribution to an understanding of the subject by the general public likely to result from disclosure*. Whether disclosure of the requested information will contribute to “public understanding”;

(iv) *The significance of the contribution to public understanding*. Whether disclosure is likely to contribute “significantly” to public understanding of government operations or activities;

(v) *The existence and magnitude of a commercial interest*. Whether the requestor has a commercial interest that would be furthered by the disclosure; and if so

(vi) *The primary interest in disclosure*. Whether the magnitude of the identified commercial interest of the requestor is sufficiently large in comparison with the public interest in disclosure, that disclosure is “primarily in the commercial interest of the requester.”

(e) *Assessment and collection of fees*. (1) Interest will accrue from the date the bill is mailed if the fee is not paid within thirty (30) days. Interest will be assessed at the rate prescribed in 31 U.S.C. 3717.

(2) If the agency reasonably believes that a requestor(s) is making multiple requests to avoid the assessment of fees, the agency may aggregate such requests and charge accordingly.

(3) The agency may request an advance payment of the fee if

(i) The allowable charges are likely to exceed \$250; or

(ii) The requestor has failed previously to pay a fee in a timely fashion.

(4) When the agency requests an advance payment, the time limits prescribed in section (a)(6) of the Freedom

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of Information Act will begin only after the agency has received full payment.

§ 1100.7 Foundation report of actions.

On or before March 1 of each calendar year, each member agency of the National Foundation on the Arts and the Humanities shall submit a report of its activities with regard to public information requests during the preceding calendar year to the Speaker of the House of Representatives and to the President of the Senate. The report shall include:

(a) The number of determinations made by each member agency of the National Foundation on the Arts and the Humanities not to comply with requests for records made to the agency under the provisions of this part and the reasons for each such determination;

(b) The number of appeals made by persons under such provision, the result of such appeals, and the reasons for the action upon each appeal that results in the denial of information;

(c) The names and titles or positions of each person responsible for the denial of records requested under the provisions of this part and the number of instances of participation for each;

(d) The results of each proceeding conducted pursuant to 5 U.S.C. 552(a)(4)(F), as amended, including a report of the disciplinary action taken against the officer of employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;

(e) A copy of every rule made by the Foundation implementing the provisions of the FOIA.

(f) A copy of the fee schedule and the total amount of fees collected by the agency for making records available under this section; and

(g) Such other information as indicates efforts to administer the provisions of the FOIA, as amended.

PART 1105—STANDARDS OF CONDUCT OF EMPLOYEES

Sec.

1105.735-1 Purpose.

1105.735-2 Scope.

1105.735-3 Definitions.

1105.735-4 Statutory provisions.

1105.735-5 Conflicts-of-Interest Counselor.

1105.735-6 Statements of employment and financial interests.

1105.735-7 Employee conduct.

1105.735-8 Presenting grievances to Congress.

APPENDIX TO PART 1105—RELATED STATUTORY PROVISIONS

AUTHORITY: E.O. 11222 of May 8, 1965, 3 CFR, 1965 Supp.; 5 CFR 735.104.

SOURCE: 32 FR 17663, Dec. 12, 1967, unless otherwise noted.

§ 1105.735-1 Purpose.

While confident of the integrity and sense of responsibility of the employees of the National Endowment for the Arts and the National Endowment for the Humanities, it is essential to the Government and to the conduct of the business of the National Endowment for the Arts and the National Endowment for the Humanities that unusually high standards of honesty, integrity, impartiality, and conduct be maintained by employees of the Endowments. In accordance with these concepts, this part sets forth policies and procedures of the Endowments with respect to employee conduct, certain permissible and prohibited outside activities, and possible conflicts-of-interest situations.

§ 1105.735-2 Scope.

The policies and procedures contained in this part apply to all employees of the Endowments, except that specific provision is made in § 1105.735-6-(b) for the filing of Statements of Employment and Financial Interests by special Government employees.

§ 1105.735-3 Definitions.

(a) *Employee* means an officer or employee of the National Endowment for the Arts or the National Endowment for the Humanities or a member of the shared staff of both Endowments. The term *employee* includes both a *regular employee* (as defined in this section) and a *special Government employee* unless expressly qualified.

(b) *Regular employee* means a person holding an appointment in the competitive or excepted service, occupying

a position on the staff of either Endowment or the shared staff of both Endowments, without regard to assigned working schedule (that is, including full-time, part-time and intermittent schedules), but excluding all *special Government employees* who have not been designated as *regular employees* by the Chairman of either Endowment for purposes of these regulations.

(c) *Full-time employee* means a *regular employee* with an assigned full-time working schedule.

(d) *Part-time employee* means a *regular employee* with an assigned part-time (less than 40 hours a week) work schedule.

(e) *Intermittent employee* means a *regular employee* with an assigned intermittent working schedule.

(f) *Shared staff and joint employees* mean employees performing services for both Endowments on a shared basis.

(g) *Special Government employee* means a *special Government employee* as defined in section 202 of title 18 of the United States Code who is employed by the National Endowment for the Arts or the National Endowment for the Humanities, or by both Endowments jointly.

(h) *Endowment* means either the National Endowment for the Arts or the National Endowment for the Humanities.

(i) *Foundation* means the National Foundation on the Arts and the Humanities.

(j) *Chairman* means the Chairman of the National Endowment for the Arts, or the Chairman of the National Endowment for the Humanities.

(Sec. 10, 79 Stat. 852 as amended 82 Stat. 186, 84 Stat. 443 (20 U.S.C. 959))

[38 FR 3511, Feb. 7, 1973]

§ 1105.735-4 Statutory provisions.

Each employee is responsible for acquainting himself not only with the provisions of this part, but also with applicable portions of each Federal statute relating to his conduct as an employee of the National Endowment for the Arts or the National Endowment for the Humanities and of the U.S. Government. This part will be called to the attention of all employees by the Administrative Officer of the Foundation at least once a year and he

will provide a copy of the part to each new employee who joins either the National Endowment for the Arts or the National Endowment for the Humanities or becomes a member of the shared staff. (A list of pertinent statutes is provided in the Appendix to this part.)

§ 1105.735-5 Conflicts-of-Interest Counselor.

(a) *Conflicts-of-Interest Counselor*. The General Counsel of the Foundation is designated the Conflicts-of-Interest Counselor, with responsibility for providing, on request from any employee, counsel regarding conflicts-of-interest regulations and requirements, as well as their applicability in particular situations. Each employee is responsible for seeking the advice of the Conflicts-of-Interest Counselor whenever it appears that he may be, or may become, involved in a possible conflicts-of-interest situation. Any supervisor may refer to the Conflicts-of-Interest Counselor any possible conflicts-of-interest situation involving a subordinate of his whenever he deems such action appropriate. In such cases, the subordinate concerned shall be informed that the matter has been referred for consideration and shall be afforded the opportunity to state his case. The General Counsel of the Foundation is responsible for reviewing conflicts-of-interest matters brought to his attention and for attempting to work with the employees concerned in resolving such situations, and for offering employees an opportunity to explain any conflict or appearance of conflict. Matters which cannot be satisfactorily resolved in this manner will be referred to the Chairman of the Endowment concerned, or, in the case of a share staff member, to the Chairmen of both Endowments, for decision and appropriate action. Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, Executive orders, and regulations.

(b) *Disciplinary and other remedial actions*. When there is a final decision that a conflicts-of-interest situation requires disciplinary or other remedial action, such action shall be taken promptly to end the conflict or appearance of conflict of interest and to carry

out any appropriate disciplinary measure. Any action taken, whether disciplinary or otherwise, shall be effected in accordance with applicable laws, Executive orders, Civil Service Commission regulations and the regulations in this part. The action taken may involve, among other things:

- (1) Divestment by the employee of his conflicting interest;
- (2) Changes in existing duties;
- (3) Disqualification for a particular assignment;
- (4) Appropriate disciplinary action, up to and including removal.

[32 FR 17663, Dec. 12, 1967, as amended at 33 FR 494, Jan. 13, 1968]

§ 1105.735-6 Statements of employment and financial interests.

(a) *Employees other than special Government employees*—(1) *General requirement.* Statements of employment and financial interests are required of all Federal employees occupying positions at or above Grade 16 or the equivalent, as well as all employees occupying positions which either require the exercise of judgment in making a Government decision, or in taking Government action with regard to:

- (i) Contracting or procurement;
- (ii) Administering or monitoring grants or subsidies;
- (iii) Regulating or auditing private or other non-Federal enterprises;
- (iv) Other activities where the decision or action has an economic impact on the interest of a particular non-Federal enterprise; or

require the incumbent to report in order to avoid involvement in a possible conflicts-of-interest situation and carry out the purpose of law.

(2) *Requirements of the National Endowment for the Arts and the National Endowment for the Humanities.* In order to fulfill the Endowments' obligations under the general Government requirement described in paragraph (a)(1) of this section, it has been determined that a Statement of Employment and Financial Interests must be completed and submitted in accordance with the procedures set forth in this section by employees occupying the following positions:

- (i) National Endowment for the Arts:
 - (a) Deputy chairman.

- (b) All special assistants to the chairman and deputy chairman.

- (c) All program, division and office directors.

- (ii) National Endowment for the Humanities:

- (a) Deputy chairman.

- (b) All assistants (including special assistants) to the chairman and deputy chairman.

- (c) All program and office directors (but not including the Public Information Director).

- (d) All program officers classified at GS-13 and above.

- (iii) Shared staff:

- (a) All attorneys.

- (b) Director and Assistant Director of Administration.

- (c) All auditors classified at GS-13 and above.

- (d) Financial manager.

- (e) Administrative services officer.

- (f) All grants officers.

- (3) *Inclusion and exclusion of positions.*

- (i) Whenever appropriate, the Chairman of an Endowment may amend paragraph (a)(2) of this section to include additional positions in his Endowment that entail submission of such statements or may exclude any positions in his Endowment listed in paragraph (a)(2) of this section the inclusion of which is not required by the general requirement in paragraph (a)(1) of this section. Inclusion or elimination of shared positions will be accomplished by agreement of both Chairmen. Each supervisor is responsible for bringing to the attention of the appropriate Chairman (through the Deputy Chairman) any position which the supervisor believes should be covered or excluded by this requirement.

- (ii) If an employee believes that his position has been improperly included among those for which a Statement of Employment and Financial Interests is required, he may bring this matter, via the Foundation's grievance procedures, to the attention of the appropriate Deputy Chairman or, in the case of shared staff, to the attention of both Deputy Chairmen. In the event that the recommendation is made that the position be included, the employee may appeal to the Chairman of the Endowment concerned, or, in the case of

shared staff, to both Chairmen, whose ruling shall be final.

(iii) Although an employee's position may generally be included within the terms of paragraph (a)(1) of this section, such position may be excluded from the reporting requirement when it is determined that:

(a) The duties of a position are such that the likelihood of the incumbent's involvement in a conflicts-of-interest situation is remote; or

(b) The duties of a position are at such a level of responsibility that the submission of a statement of employment and financial interests is not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect on the integrity of the Government.

(4) *Submission of original and supplementary statements.* Each employee covered by this requirement shall complete the statement and submit it within 90 days after the effective date of this part. Each new employee shall complete and submit the statement within 30 days after his entrance on duty or within 90 days after the effective date of this part, whichever date is later. All changes in, or additions to, the information contained in each employee's original statement must be reported in a supplementary statement submitted by the employee as of June 30 each year. If no changes or additions occur a negative report is required. Notwithstanding the filing of the annual report required by this subparagraph, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts of interest provisions of section 208 of title 18, U.S.C., or § 1105.735-7 of this part. The Administrative Office of the Foundation is responsible for informing each new, affected employee of the requirement for him to submit the statement within 30 days after his entrance on duty.

(5) *Interests of employees' relatives.* For purposes of the statement, the interests of a spouse, minor child, or any other member of an employee's immediate household who is a blood relation of the employee, are considered to be interests of the employee.

(6) *Information not known by employees.* If information required to be included on the statement of employment and financial interests (supplementary or otherwise, including holdings placed in trust) is not known by the employee but is known to another person, the employee shall request such other person to submit the information on his behalf.

(7) *Information not required.* Employees are not required to submit information relating to their financial interests in any professional society not conducted as a business enterprise as described in the next sentence, charitable, religious, social, fraternal, recreational, public service, civic, political, or similar organization not conducted as a business enterprise. Professional societies, educational institutions, and other nonprofit organizations engaged in research, development, or related activities involving grants of money from, or contracts with, the Government are deemed "business enterprises" and are required to be included in employees' statements of employment and financial interests.

(8) *Effect of employees' statements on other requirements.* The statements of employment and financial interests and supplementary statements required of employees are in addition to, and are not in substitution for, or in derogation of, any similar requirement imposed by law, regulation, or Executive order. The submission of the statement or supplementary statement by an employee does not permit him or any other person to participate in any matter in which his or the other person's participation is prohibited by law, regulation, or Executive order.

(9) *Confidentiality of employees' statements.* Each statement of employment and financial interest and each supplementary statement will be held in strictest confidence. The officials designated below to receive such statements will not allow access to, or information to be disclosed from, a statement except to carry out a purpose of this part. Information will not be disclosed from the statement except as the Civil Service Commission or the appropriate Chairman (or Chairmen, in

the case of shared staff members) may authorize for good cause shown.

(10) *Review of statements.* (i) Each Deputy Chairman will submit his statement to the appropriate Endowment Chairman.

(ii) Employees of either Endowment shall submit their statements to the Deputy Chairman of that Endowment.

(iii) Joint employees shall submit their statements to both Deputy Chairmen.

(iv) When a statement submitted under paragraph (b)(2) or (3) of this section indicates a conflict between the interests of an employee and the performance of his services for the Government and when the conflict or appearance of conflict cannot be resolved by the Deputy Chairman (or by both Deputy Chairmen in the case of joint employees), he shall report the information concerning the conflict or appearance of conflict to the Chairman through the General Counsel. In the case of joint employees, information concerning the conflict or appearance of conflict shall be reported to both Chairmen. The employee concerned shall be given an opportunity to explain the conflict or appearance of conflict before remedial action is initiated.

(b) *Special Government employees.* (1) Each special Government employee shall submit a statement of employment, and, unless otherwise directed, a statement of financial interests not later than the time of his employment. It is necessary that the special Government employee report all Federal and non-Federal employment, and, when a statement of financial interests is required, those financial interests which relate, either directly, or indirectly, to his Foundation responsibilities or duties.

(2) Each special Government employee must file a supplementary statement of employment and financial interests whenever a significant change occurs, either in his employment or financial interests, in order that his statement may be kept current.

(3) The provisions of paragraphs (a) (5) through (9) of this section apply to

special Government employees in the same manner as to other employees.

(Sec. 10, 79 Stat. 852, as amended at 82 Stat. 186, 84 Stat. 443 (20 U.S.C. 959))

[32 FR 17663, Dec. 12, 1967, as amended at 38 FR 3512, Feb. 7, 1973]

§ 1105.735-7 Employee conduct.

(a) *General.* (1) Each Endowment assumes that an employee will conduct himself in a manner that will not discredit or embarrass himself or the Endowment. However, it is pointed out that the violation of the regulations in this part, or any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct on the part of an employee (whether in official duty status or not), is cause for immediate disciplinary action, up to and including removal.

(2) Employees shall avoid any action, whether or not specifically prohibited, which might result in or create the appearance of:

(i) Using public office for private gain;

(ii) Giving preferential treatment to any person;

(iii) Impeding Government efficiency or economy;

(iv) Losing complete independence or impartiality;

(v) Making a Government decision outside official channels; or

(vi) Affecting adversely the confidence of the public in the integrity of the Government.

(b) *Indebtedness.* Employees are expected to meet their just financial obligations and not to take advantage of the fact that their wages are not subject to garnishment for private debts. Failure to meet just financial obligations in a proper and timely manner may result in disciplinary action, up to, and including, removal. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, and "in a proper and timely manner" means in a manner which the agency determines does not, under the circumstances, reflect adversely on the Government as his employer. In the event of dispute between an employee and an alleged creditor, this section does not require the Endowment concerned to determine

the validity or amount of the disputed debt.

(c) *Payment of taxes.* Employees are expected to meet their obligations for payment of taxes to Federal, State, and local authorities. Delinquency in payment of Federal, State, and local taxes is cause for disciplinary action, up to, and including, removal. Federal agencies are required to furnish State taxing authorities (including the District of Columbia) with a copy of Form W-2 indicating annual earnings and Federal income tax withheld. Employees are authorized to pay delinquent Federal taxes by payroll deduction: *Provided*, That they make satisfactory arrangements with the Internal Revenue Service to liquidate their tax liabilities in this manner. When such arrangements are not made, District Directors of Internal Revenue have the authority to levy upon the salaries of Federal employees for the full amount of delinquent Federal income tax.

(d) *Financial interests.* Any employee may hold financial interests and engage in financial transactions in the same way as any private citizen, provided that such interests or activities are not prohibited by law, Executive order, or the regulations in this part. In particular, no employee may have any direct or indirect financial interest that conflicts substantially or appears to conflict substantially with his duties and responsibilities as an Endowment employee. No employee shall carry out Endowment duties involving any organization in which he has a direct or indirect financial interest. No employee shall engage directly or indirectly in any financial transaction resulting from, or primarily relying on, information obtained through his employment, or use his employment to coerce, or give the appearance of coercing, a person, to provide financial benefit to himself or another.

(e) *Participation in Endowment grants by former Endowment employees.* In cases not directly coming under the prohibitions of 18 U.S.C. 207 (relating to activities of former Government officials), the following rules shall apply:

(1) In addition to the statutory bars against ever dealing with the U.S. Government in connection with a particular matter in which he participated

personally and substantially while an employee, and against dealing with the Government for 1 year after leaving in connection with a matter under his official responsibility while in the Government, a former regular employee of an Endowment may not negotiate with either Endowment, with a view to obtaining support for himself or his organization within 1 year after having left the Endowment, except with the written permission of the Chairman of the Endowment in which he had been employed.

(2) A former regular employee of an Endowment may not be compensated from an Endowment grant directly or indirectly within 1 year of his leaving the Endowment, except with the written permission of the Chairman of the Endowment in which he had been employed.

(3) In the case of joint employees, the written permission referred to in paragraphs (e)(1) and (2) of this section must be given by both Chairmen.

(f) *Gifts, entertainment, and favors.* Employees may not solicit, or accept directly or indirectly from any person, institution, corporation, or group, anything of economic value as a gift, gratuity, favor, entertainment, or loan, which might be reasonably interpreted by others as being of such a nature that it would affect his impartiality. This is especially applicable in those instances where the employee has reason to believe that the person, institution, corporation, or group:

(1) Has, is seeking, or is likely to seek, assistance, support, or funds from an Endowment; or

(2) Conducts operations or activities which are involved with, or are supported by, an Endowment; or

(3) Has interests which might be substantially affected by the employee's performance or nonperformance of duties; or

(4) May be attempting to affect the employee's official actions.

(i) An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of

nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(ii) Employees are not permitted to accept a gift, or decoration, or other objects from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. 7342.

(iii) Employees may accept promotional material of nominal intrinsic value such as pens, pencils, note pads, calendars, etc. Employees may, on infrequent occasions, accept items of nominal value such as food in the ordinary course of a luncheon or dinner meeting, site visit, or professional conference, when the employee is properly in attendance.

(iv) Neither this paragraph nor paragraph (g) of this section precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment or other personal benefits, nor does it allow an employee to be reimbursed by a person for travel on official business under agency orders when reimbursement is proscribed by Decision B-128527 of the Comptroller General dated March 7, 1967.

(g) *Outside employment and other activity.* (1) Employees shall not engage in any outside employment or other outside activity not compatible with the full and proper discharge of their duties and responsibilities. Incompatible activities include, but are not limited to, acceptance of anything of monetary value which may result in or create the appearance of a conflict of interest.

(2) Employees shall not engage in outside employment which tends to impair their health or capacity to discharge acceptably their duties and responsibilities.

(3) Regular employees shall not receive anything of value from a private source as compensation for their activities as endowment employees.

(4) Employees shall not engage in teaching, lecturing, or writing which is dependent on official information obtained as a result of Government employment, except when the information has been, or is being made available to the general public, or will be made available to the public on request, or when the Chairman or Deputy Chairman of the Endowment concerned gives written authorization for the use of nonpublic information on the basis that the use is in the public interest. However, employees are encouraged to engage in teaching, lecturing, and writing not prohibited by the regulations in this part, by law, or by Executive order.

(5) Employees shall not receive anything of monetary value for any consulting, lecturing, discussion, writing, or presentation, the subject of which is devoted to the responsibilities, programs, or operations of an Endowment, or which draws on official data or ideas which have not become part of the body of public information.

(6) Employees shall not serve as organizers or directors of conferences, colloquia or similar events supported by grant or contract from an Endowment, but may otherwise participate in such events provided they do not receive any compensation or economic benefit for such participation.

(7) Employees may, however, participate in the affairs of, and accept an award for meritorious public contribution or achievement given by a charitable, religious, fraternal, educational, recreational, public service, or civic organization.

(h) *Advice or assistance to nonprofit or commercial organizations.* The conditions under which full-time employees may offer assistance or advice to nonprofit or commercial organizations are set forth in this paragraph (h). Although these conditions are stated as general rules, illustrative applications to specific situations are set forth as an aid to interpretation:

(1) *General rules.* While not on official duty, an employee may provide advice or assistance and receive compensation therefor, to either nonprofit or commercial organizations: *Provided*, That such services are unrelated to his Government activities and do not draw

upon information deriving from Government sources not publicly available.

(2) *Specific examples*—(i) *Visiting committees*. Employees should not participate in the deliberations of a college or university visiting committee; however, an employee may meet with such groups as an Endowment official where it would be appropriate to attend a similar meeting with any other comparable group requesting his assistance.

(ii) [Reserved]

(iii) *Membership and office holding in professional societies*. An employee may be a member of a professional society, but may not serve as an officer except where the society has not received any support from an Endowment during the preceding three years and the employee has no reason to expect it to seek support during the tenure of his office. If the society later requests support from an Endowment, the employee should resign his office in the society or request permission to remain in such office.

(i) *Misuse of information*. For the purpose of furthering a private interest, employees shall not (except as provided in paragraph (g)(4) of this section) directly or indirectly use, or allow the use of, official information obtained through, or in connection with, his Government employment which has not been made available to the general public.

(j) *Compensation from endowment awarded funds*. No regular employee may receive any compensation, either directly or indirectly, from funds awarded to contractors or grantees by either endowment.

(k) *Use of Federal property*. No employee may use Federal property or facilities of any kind for other than officially approved activities. Every employee has the responsibility to protect and conserve all Federal property which has been entrusted to him.

(l) *Exercise of notary powers*. Employees who are notaries public may not charge or receive any compensation for performing any notarial act during working hours, including the luncheon period.

(m) *Political activity*. Restrictions in this section are applicable to employees on leave, leave without pay, or fur-

lough, as well as to other regular employees. Individuals whose employment is on an intermittent basis (not occupying a substantial portion of their time) are subject to the political activities restrictions only while they are in an active duty status. The period of active duty status for a particular employee includes the entire 24-hour period of any day of actual employment. The "Federal Personnel Manual" may be consulted in the Foundation Administrative Office. If an employee is in doubt about permissible activities, he should contact the Administrative Office for clarification.

(1) Employees may not use their official positions or influence for the purpose of interfering with an election and they may not take an active part in political management or in political campaigns, except as provided in paragraphs (m) (4) and (5) of this section.

(2) No employee may discriminate against another employee because of his political opinions or affiliations.

(3) An employee may not become a candidate for nomination or election to a Federal, State, county, or municipal office on a partisan political ticket. Nor may an employee become a candidate as an independent when opposed by a partisan political candidate, except as provided in paragraph (m)(4) of this section.

(4) Certain political subdivisions in the vicinity of Washington, D.C., as well as other municipalities, designated by the Civil Service Commission, have been granted a limited exception to the rules prohibiting political management or candidacy for local office. In such municipalities, employees may become candidates as independents, even when opposed by partisan political candidates.

(5) In general, employees are encouraged to be candidates for, and to hold, State, county, or municipal offices of a nonpartisan nature when permitted by law. Employees desiring to be candidates for, or to hold, a State or local office or to undertake the political management of a candidacy for such office, must secure the approval of the appropriate Endowment Chairman or, in the case of members of the shared staff, of both Chairmen.

(6) Full-time employees, with the prior consent of the Chairman concerned, or of both Chairmen, in the case of members of the shared staff, may hold positions under a State or local government on a part-time basis only. Intermittent employees may hold full-time or part-time State or local government positions. In both cases, the above restrictions on political activity must be observed.

(n) An employee shall not participate, while on Government-owned or leased property or while on duty for the Government, in any gambling activity, such as a lottery or the sale or purchase of numbers, etc.

(Sec. 10, 79 Stat. 852, as amended 82 Stat. 186, 84 Stat. 443 (20 U.S.C. 959))

[32 FR 17663, Dec. 12, 1967, as amended at 38 FR 3512, Feb. 7, 1973]

§ 1105.735-8 Presenting grievances to Congress.

Nothing in this part shall be construed as abridging in any way the right of employees, either individually or collectively, to petition Congress, or any Member thereof, or to furnish information, when appropriate, to either House of Congress, or to any committee or member thereof.

APPENDIX TO PART 1105—RELATED STATUTORY PROVISIONS

The following is a list of statutes related to the conduct of Government employees and consultants. Upon request, pertinent excerpts of these statutes will be made available by the Administrative Office of the Foundation.

1. House Concurrent Resolution 175, 85th Congress, 2d session, 72 Stat. B12, the "Code of Ethics for Government Service."

2. Chapter 11 of title 18, United States Code, relating to bribery, graft, and conflicts of interest, as appropriate to the employees concerned.

3. The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

4. The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

5. The prohibition against the employment of a member of a Communist organization (50 U.S.C. 784).

6. The prohibitions against (1) the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783); and (2) the disclosure of confidential information (18 U.S.C. 1905).

7. The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

8. The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a. (c)).

9. The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

10. The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

11. The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

12. The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

13. The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

14. The prohibitions against (1) embezzlement of Government money or property (18 U.S.C. 641); (2) failing to account for public money (18 U.S.C. 643); and (3) embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).

15. The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

16. The prohibition against proscribed political activities in Subchapter III of Chapter 73 of title 5, United States Code and 18 U.S.C. 602, 603, 607, and 608.

17. The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

[32 FR 17663, Dec. 12, 1967, as amended at 33 FR 494, Jan. 13, 1968]

PART 1110—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Sec.

1110.1 Purpose.

1110.2 Application of part.

1110.3 Discrimination prohibited.

1110.4 Assurances required.

1110.5 Illustrative applications.

1110.6 Compliance information.

1110.7 Conduct of investigations.

1110.8 Procedure for effecting compliance.

1110.9 Hearings.

1110.10 Decisions and notices.

1110.11 Judicial review.

1110.12 Effect on other regulations; forms and instructions.

1110.13 Definitions.

APPENDIX A TO PART 1110—FEDERAL FINANCIAL ASSISTANCE TO WHICH THIS PART APPLIES

AUTHORITY: Sec. 602, 78 Stat. 252 and sec. 10(a)(1), 79 Stat. 852.

SOURCE: 38 FR 17991, July 5, 1973, unless otherwise noted.